

THE NATION

JANUARY 18, 1958 . . 25c

FUND-RAISING:

The Fight for the Charity Dollar

by J. L. PIMSLEUR

The Scandalous Ad-Tax

by DAVID CORT

The Writer as Nag

by HERBERT GOLD

JAN 16 '58

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LETTERS

Homage to a Poet

Dear Sirs: I cannot resist the urge to write thanking you for having printed Willis Barnstone's *The Devil of My Dreams*. I am profoundly moved.

EDWARD V. BARRETT
Chicago, Illinois

All the News from All Over

Dear Sirs: I would like to call your attention to several errors in the article, *Foreign News at Wholesale*, in the December 21 issue of *The Nation*. These errors reflect on the accomplishments of *The New York Times*.

1. Professor Kruglak says that "in the Hungarian and Israeli situations . . . there were no American reporters permanently stationed in Budapest or Jerusalem." In fact, *The New York Times* has since 1945 maintained a full-time, American staff correspondent in Israel. Our present correspondent is Seth King. In the situation to which he refers—the British, French and Israeli attack on Egypt—*The New York Times* had a total of eight staff correspondents in the area during the fighting and its aftermath. These included our military editor, Hanson Baldwin.

At the height of the Hungarian revolution, our Vienna correspondent, John MacCormac, was continuously in Budapest. He arrived there before the trouble started. The article refers to him as "Canadian-born John MacCormac," the implication being that his place of birth somehow limits or diminishes his usefulness as the correspondent of a United States newspaper. In fact, Mr. MacCormac has served *The New York Times* for thirty-one years and is as much a *Times* man as any native-born correspondent.

2. Professor Kruglak says, "A cynic might conclude that the surest road to newspaper bankruptcy is to maintain a large and competent foreign staff."

The New York Times maintains such a staff, and is, happily, quite solvent.

3. According to the article, "CBS and NBC . . . now have larger foreign staffs than any American newspaper."

We do not believe that either network (or both of them together) has a foreign staff as large as that of *The New York Times*. We have about fifty staff writers abroad, roughly one hundred part-time correspondents, and about seventy-five non-writing employees (secretaries, chauffeurs, editors,

translators and so on). The total is around 225.

4. Professor Kruglak also says, "We [the U.S. press] concentrate our forces in London, Paris, Rome, Bonn and Tokyo, leaving the rest of the world to the news agencies and local nationals for coverage."

A glance at the foreign bureaus listed on the masthead of *The New York Times* will show the inaccuracy of that statement so far as *The Times* is concerned. The listing of bureaus tells only a part of the story. We have several roving correspondents who do not have bureaus.

IVAN VEIT
Assistant Business Manager
and Promotion Director,
The New York Times

New York City

Another View

Dear Sirs: Thanks for calling my attention to *The Nation's* excellent and thought-provoking article on foreign correspondence and news. I have the feeling that at long last the American public is beginning to get interested in foreign news. And I see some improvement each year in the handling of foreign news in an increasing number of newspapers. But it is too slow. Articles such as yours will help speed the process.

BASIL L. WALTERS
Executive Editor,
Knight Newspapers, Inc.

Chicago, Illinois

Wolfe at Clurman's Door

Dear Sirs: I trust it is not too late to dissent from Mr. Clurman's opinions on *Look Homeward, Angel* in your issue of December 14. He has a right to these opinions, however ephemeral. But in supporting his views he has certainly uttered what seems to me a lot of highfalutin nonsense.

For instance, what does he mean by characterizing the realism of the twenties as "drab . . . a stark avoidance of lyric palliation or metaphysical justification"? If I understand these terms, can they possibly be applied to Tom Wolfe, indeed to any figure of the twenties except possibly Dreiser? Was Wolfe's work "significant as an outcry at the anguish and bewilderment of a people newly come to civilized reflection"? Please, Mr. Clurman, explain what this means. Except for Eugene, can he name one character in the play who possesses the power of "civilized reflection" or "ripe understanding"?

Does either the novel or Ketti Frings's adaptation lack "poetic extension or transfiguration"? Does "no idea or poetic essence emerge"? *Poetic*? Oh well, maybe not in the terms made fashionable by *The Cocktail Party*. But to miss the irony of Wolfe is to miss everything. To stop one's ears to Gant's Homeric laughter or to Eliza's indignation is to abdicate criticism altogether.

BERNARD RAYMUND
Safety Harbor, Florida

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EDITORIALS

Mileage in Peace

At long last we have reached the point where, after a decade of fear, fumbling and misjudgment, the politicians are beginning to sense that there may be real political mileage in a pro-peace position. Sooth-sayers will note these omens:

1. Senator Lyndon Johnson, donning the uniform of a space cadet and jumping the gun on the President's State of the Union message, has managed to come a resounding cropper by misreading the signs of the time. After first urging the nation to moderate its "fixation on weapons," he apparently forgot what he had said and proceeded to urge a policy of controlling the world through winning and holding total control, no less, of the bastions of outer space, starting with the moon. Texans have always liked large ideas but this, without doubt, is the largest idea a Texan has had in years. The quick reaction of the nation's press must have convinced the Senator that he had guessed wrong. For in this post-sputnik period the phrase "control of the world" grated harshly on many ears; it did not enchant, it appalled. Time was when the Senator was known as "Lying Down" Lyndon; now they will have to say, "Wrong Guess" Johnson. According to Stewart Alsop, the Senator decided, some years back, to go along with the President's rather relaxed views on national defense on the theory that "there's no mileage in the defense issue." Misjudging the effect of the sputnik, he apparently decided to go all out for missiles and the conquest of outer space only to discover that there is not as much mileage in missiles as he imagined.

2. Secretary of State Dulles, after a week of the worst world's press that he has experienced since assuming office—a record in itself—emerged from a session of the House Foreign Affairs Committee in which,

by all accounts, he was kept constantly on the defensive. This was news. For the Secretary's secret weapon, in dealing with Congressional committees, has always been to keep the committeemen on the defensive. This time he emerged smiling, but explaining—explaining why he was reluctant to talk about peace with the Russians, explaining why he had so little confidence in Yankee horse-trading sense and ability, explaining why he was opposed to negotiations at the summit, at intermediate range or in the foothills. In his wake came Representative Frank M. Coffin, Democrat (please note), who, in a terse statement, nailed down the fallacies in the Dulles position that we don't dare talk peace with the Russians. "I have faith," said Mr. Coffin, "that the American people can keep its guard up while still . . . probing for peace." We've been waiting impatiently, these many years, for some member of Congress to reaffirm his faith in Yankee bargaining power, in our ability to hold our own in any give-and-take about trade, peace or whatnot. As might be expected, Mr. Coffin is a down-east Yankee, from the State of Maine.

3. Although it is difficult to comment on the Gaither and Rockefeller Reports—the first because it is known only by "leaks" which have not been confirmed, the second because it is merely the first of a series of reports—it would seem clear that both documents are essentially anti-climactic. The Gaither Committee was appointed last May; the Special Studies Project, which sponsored the Rockefeller Report, was set up in June, 1956. Both reports, it will be noted, are based on study projects which originated prior to the launching of the Soviet satellites. And, ironically, the sputniks have, to some extent at least, noticeably diminished popular enthusiasm for adventurist military policies. One could almost feel the "shock" reaction to the bleak,

harsh conclusions of both reports; it was as though some omniscient observer had been heard to remark, "if the future's that bad, we might as well all drop dead now." Once again, the reaction indicated that there is, perhaps, more mileage in peace than war.

4. Then there was last week's issue of *Look* which featured—and a good feature it was—three roads to peace. The authors were Walter Lippmann, Paul Hoffman and Bertrand Russell. Apparently *Look* feels that there may be some mileage in the quaint, old-fashioned, absurd notion that people want peace.

5. Finally, there was the President's State of the Union address. It was corny and full of platitudes. But once again the President, after being counted down and out politically, made his opposition look pretty silly. For he did say some of the right things, he avoided saying most of the wrong things, and he arranged his proposals in a way that indicated the drift of his feeling. Anyone is privileged to paraphrase an address so full of platitudes as this one. So here is our interpretation: the President seemed to be saying that we should recognize the fact of co-existence, that we should test out cultural and other exchanges with the Soviets, that we should maintain an adequate defense but not go berserk on missiles, that total peace was the best counter to a strategy of total mischief, and, generally, that we should develop a sense of national confidence in our own intentions and purposes and capabilities. We'll bet Senator Johnson a peck of cucumbers against a peck of Texas pecans that there is more political mileage in the President's program than in his own attempt to control the world from outer space.

Some day it will be remarked of this age of paranoia from which we are gradually, erratically emerging, that it was strange indeed that so many sensible men, men of good will and fine intentions, should have been deluded for so long by the notion that the people want war, not peace.

Crash Programs and Civil Rights

The urgency with which national defense issues are viewed in Washington is in remarkable contrast with the new complacency on civil rights. Attorney General William Rogers favors "a cooling-off period." The decision of the Fifth Circuit Court of Appeals, reversing a lower court ruling in which the Dallas school authorities had been ordered to proceed with desegregation at the mid-term, reflects the same attitude. And the noise the Democrats are making about missiles and outer space serves as a fine cover for their lack of unity on civil rights. Moreover, both the Executive branch and Congress have a built-in alibi for soft-pedaling civil rights. Petitions, complaints and demands for action can now be referred to the new Civil Rights Commission for "study and recommendation." Consisting of six members deliberately chosen for their devotion to the

cause of moderation, the commission is not likely to break many lances crusading for civil rights. Three of the six are Southerners, and of these, two—John S. Battle, former Governor of Virginia, and Doyle E. Carlton, former Governor of Florida—are "moderate" segregationists.

The nearly universal consensus that the commission is ideally constituted seems to rest on two propositions: that only a group of moderates would be confirmed by the Senate; that situations of conflict can best be resolved by muffling the sources of conflict. If true, the first proposition should be a warning that the commission will not offend the Dixiecrats; the second proposition, unhappily, is not sustained by the record. Minorities have usually won recognition of their rights by a process not unlike collective bargaining in which, if the true moderate is to be effective, he must be flanked by a few so-called "extremists" who can invest his moderation with bargaining power. Six moderates do not need to bargain; they are agreed that desegregation should proceed "with all deliberate" moderation—the more deliberate the better. There will be no "crash" program on civil rights. All the same, the issue is dynamic and it will not be easy to secure "a cooling-off" period or to freeze the status quo.

The Law As Undergirding

The December 23 issue of *Life* presents an impressive two-page editorial entitled Our New and Vaster Frontier, in the course of which it is stated:

The world's need for peace and order is exacerbated not only by the Communist cancer, but by man's neglect of his greatest political invention, the idea of law. The president of the American Bar Association, Charles Rhyne ... has launched a campaign to establish the rule of law in international affairs. The sense of justice and of universal moral law, which must undergird any such system, has always undergirded the American sense of mission.

Mr. Luce's sense of the American mission never fails him, and naturally he is desirous that it should be undergirded by The Law, Morality, the Deity and anything else handy that rings nobly on the ear. This is not the first time that *Life's* publisher has so argued. Addressing the Indiana State Bar Association on September 20, last year, he spent about an hour on the general subject of The Law as undergirding, but it wasn't until near the end of the speech that he explained what it was he wanted to undergird:

The first reward [of the rule of law] is money in your pocket—in the pockets of all mankind....

To maintain and advance [world] prosperity there is needed, for one thing, a bigger and smoother flow of capital. But what do we find? We find that most of the world lacks a favorable climate for investment. And what is it that makes the climate so forbidding? Quite simply, the lack of reliable laws and rules. There is potential

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wealth everywhere, but good international law is scarce. No scarcer, though, than the genius of Mr. Luce. Who else can argue so persuasively that the purpose of The Law is to undergird a 6 per cent return on your foreign investments—and make the argument sound like a Sermon on the Mount?

Hospital White

Last week a group of executives from the coffin-nail industry gathered for a press conference at New York's Plaza Hotel to launch the new "Hi-Fi" filter Parliament cigarette with an aura of solemn magnificence that would well have befitted the launching of the sputnik. In the foyer, test-tubes bubbled and glassed-in machines smoked cigarettes by means of tubes. Men and women in long white laboratory coats bustled about and stood ready to answer any question. Inside, a Philip Morris executive told the audience of reporters

that the new "Hi-Fi" filter was an event of "irrevocable significance." The January issue of *Consumer Reports* says that this dramatic new development has greatly reduced tars and nicotine in Parliaments, and that "these results put the 'Hi-Fi' Parliaments in a class with King Sano and Kent filters in tar-content, and with Kent in nicotine content." The Philip Morris Co., then, has at least caught up with the leaders, and they reported at the press conference that their sales force was "charged with enthusiasm." That is only appropriate, for Philip Morris executives estimate that in 1958 this country will buy two hundred billion filter cigarettes.

According to most medical reports, and new findings constantly confirming them, these smokers will smoke at their own risk of cancer. In this context, it should come as no solace to smokers that the manufacturers of the new filter describe it as "hospital white."

FUND-RAISING:

1. The Fight for the Charity Dollar . . by J. L. Pimsleur

"THERE ARE three things wrong with philanthropy," an executive of one of the country's great philanthropic organizations told me, and he ticked them off on his fingers: "One, people don't give enough; two, they don't give wisely; three, much of what they give is spent wastefully."

This is harsh criticism in a field where even moderate criticism, publicly expressed, is considered bad form. After all, where the goal is noble, isn't it graceless to examine means? Philanthropy is a great industry; in assets, it ranks fourth in the nation, right behind manufacturing, agriculture and wholesale-retail trade; in number of "shareholders," it ranks first. Dealing exclusively with public funds collected for public purposes, it should be operating, finance-wise, in a fishbowl. Yet the annual reports made public by even the most respected philanthropic institutions hide almost as much as they tell; for frankness, they rank about on a par with the

more sophisticated income-tax return. The man who donates a dollar to build a hospital would never know, from these reports, that half his gift may never have reached the building site.

This is not to say that a philanthropic agency is not deserving of support simply because it juggles figures. The expenditures which do not show up in the annual report, or which show up in misleading fashion, have been made honestly and for good reason, even if the reason is not quite what the contributor is led to think. At fault is not the institution or its bookkeeper, but the philanthropic system itself—a competitive jungle in which it often takes as much time, effort and money to raise the philanthropic dollar as it does to spend it. This is the one ugly truth which, for the good of the cause, the fund-raiser seeks to suppress.

By and large, fund-raising is a ten-month industry, but it has its seasonal aspects. We are now at the height of the season—the time of year when appeals from hundreds of organizations, some big, some small, and most of them worthy of support, weigh heaviest on the post-

man's back and on the citizen's conscience. If ever the giver needs guidance, he needs it now.

Perhaps the best way to introduce the whole complex philanthropic picture is to pose some questions, and to answer them:

Who gives to philanthropy, and how much?

In 1956, 500,000 gift-supported, fund-raising agencies and institutions raised \$6.1 billion for use in 1957, more than twice as much as in 1950. Contrary to popular opinion, big business is not the largest donor. Corporations give about 7 per cent of the total; individuals around 70 per cent. The rest comes out of the pockets of organized labor and various other groups.

Big companies give less, proportionately, than smaller ones. Corporations with assets under \$25,000,000 give 1.24 per cent of their income; those with assets of more than \$100,000,000 give only .65 per cent. The average American individual donates 2 per cent.

At no time has corporate giving ever approached the tax-allowable limit of 5 per cent of net income. Not that the tax situation is an insignificant factor in corporation giving.

J. L. PIMSLEUR is a free-lance writer who specializes in the social welfare field. This is the first of three articles on the fund-raising industry.

January 18, 1958

ing. From 1951 to 1954, an 82 per cent excess-profits tax reduced the cost of the contribution dollar to 18 cents, and the period was marked by heavy giving by corporations. The first year that the excess-profits tax was removed, corporation-giving dropped by \$150,000,000. The 1954 decline has since been recovered, however, and recent figures indicate corporation-giving is well above that of 1950.

Of the \$6.1 billion given in 1956, 53 per cent was donated to denominational causes, 20 per cent to social welfare, 13 per cent to various health drives and 9 per cent to educational institutions. The remainder, including 3 per cent to foundations, went to miscellaneous causes. In this connection it is noteworthy that corporations give almost nothing to denominational campaigns, concentrating their philanthropic gifts on social welfare and health.

Do we give enough?

According to F. Emerson Andrews, director of the Russell Sage Foundation, "neither corporate giving nor total giving has increased as phenomenally as the public has been led to believe." The \$2.5 billion rise in philanthropic giving since 1950 occurred during a period when the Gross National Product soared by \$127 billion and the National Income by over \$100 billion. The jump in contributions, therefore, was relatively small; moreover, it was accompanied by a sharp decline in the value of the dollar and a general 15 per cent increase in the cost of living. "Thus, from the point of view of the recipient agencies," concluded Andrews, "the growth of philanthropic aid to health, education and welfare has largely been absorbed in added costs and has hardly been sufficient to meet their needs."

The problem, according to Andrews, is not that money is lacking. The American public spends \$14 billion annually on tobacco and liquor—\$3 billion more than we spend on all education and 28 times as much as we *donate* to educational institutions. We spend \$300,000,000 on chewing gum—six times the amount spent on cancer research by the National Cancer Institute, the Atomic Energy Commission, the American

Cancer Society, the Sloan-Kettering Foundation and the Damon Runyon Cancer Fund combined.

If corporations and the public gave up to the tax-allowable limit of 5 per cent of income to philanthropy, this year's total philanthropic contributions would reach nearly \$18 billion instead of \$6 billion.

What are the needs?

If philanthropy is already lagging behind needs, what of the future? Our population is increasing at the rate of 2.8 million a year; by 1975 it will have reached 228,000,000.

The population is being fed from both ends: more babies are being born and people live longer. Both phenomena, as well as others associated with increasing populations, create new demands on a philanthropy already facing many problems.

Welfare. Half of the four million babies born each year belong to families which collectively earn only one-fifth the National Income. It is upon these that, sooner or later, most welfare funds are spent. Juvenile delinquency has multiplied five times faster than the population. Agencies concentrating on family and children's welfare report an enormously accelerating demand for their services. Nearly a million "dependent" children are today receiving aid; 400,000 annual divorces and annulments involve 350,000 children, and many of these become "cases." More than 150,000 mothers give birth to children out of wedlock each year.

According to Herold C. Hunt, Under-Secretary of the federal Department of Health, Education and Welfare, "Our welfare services must expand at least 15 per cent just to maintain their current level of service in relation to our population." What is true of government services is equally true of philanthropic services—unless one begins to take over the responsibilities of the other.

The Aged. Our population has doubled since 1900; in the same period, the number of persons sixty-five years old or older has quadrupled. Medicine has succeeded in lengthening life, but the social sciences have not yet succeeded in solving the problems created by longevity. There are insufficient homes for the aged, and those that exist are

expensive for the middle-income family. With age comes chronic illness; 88 per cent of all hospital beds are occupied by chronically-ill patients, most of whom are aged. And nearly three-quarters of all Americans over sixty-five, according to a recent survey by the Twentieth Century Fund, have no income at all or receive less than \$1,000 annually.

Health. One in every six persons in this country suffers from at least one known physical or mental impairment. According to Dr. John W. Cronin of the U.S. Public Health Service, "both general hospitals and tuberculosis facilities now have three-quarters of the beds needed. Mental hospitals, on the contrary, have made no net advance, percentage-wise, in total needs met. In fact, because of population growth, 51,000 more beds for the mentally ill are needed now than were needed in 1948. About 25,000,000 people live in areas which provide less than 50 per cent of hospital facilities required."

More than a million new hospital beds are badly needed. To provide and maintain these facilities involves an expenditure of about \$22 billion, of which \$10 billion would be expected to come from private philanthropy. This represents twenty-five times the amount philanthropy spent for hospital construction in 1957!

Education. "Well over half the nation's universities are operating in the red because of a 50 per cent increase in the average per capita cost of operations," reports Dr. John A. Pollard, Research Director of the Council for Financial Aid to Education. Six of every seven institutions now possess less than half the endowment resources they need to maintain their present standards of service. Operating expenditures for higher education run currently to about \$3 billion a year, of which philanthropy—including individual, foundation and corporate gifts—furnishes about a half-billion. Most sorely pressed of the institutions of higher education are the eighty-two recognized medical schools, which find themselves faced with mounting demands for more doctors, more health services, more research—all in the face of mounting costs and lagging income.

No one knows, at this juncture, how much the federal government—under the impetus of Soviet competition—will pour into higher education. But even the most ambitious programs so far proposed will still leave huge deficits for philanthropy to fill.

Are philanthropic funds collected sensibly?

Each year, the people of New York City get appeals from about 1,200 local and 600 national fund-raising organizations. In Cleveland, a new fund-raising campaign is started every day. Independent drives by the big major health organizations continue through ten months of the year (examples: Muscular Dystrophy Associations, November; Arthritis and Rheumatism Foundation, November-December; National Tuberculosis Association, December; March of Dimes, January; American Heart Association, February; etc.).

This competitive fund-raising is inefficient and wasteful. Since each agency is competing for a slice of the same pie, each has to finance its own bureaucracy: fund-raisers, advertisers, public-relations experts, educational and promotion specialists, office clerks, executives, etc.

From the giver's point of view, multiple campaigns mean confusion, annoyance, the fogging of judgment (who can decide wisely among the needs of the Heart Association or the March of Dimes or muscular dystrophy?), and often a souring on the whole business of philanthropy. But most important is the disastrous effect of this multiple set-up on the beneficiaries.

Are we giving most where the need is greatest?

Heart and circulatory diseases kill 900,000 Americans each year—more than the next five leading causes of death combined. Cancer, which since 1900 has advanced from eighth to second place as a killer, takes 250,000 lives annually. Polio, in its worst years, never struck more than 38,000 people, and relatively few of them fatally. Yet the National Foundation for Infantile Paralysis, biggest and most successful of the national health agencies, raised \$8,000,000 more in 1956 than did the American Heart

Association and the American Cancer Society combined.

The table elsewhere on this page dramatizes the fact that, under our present set-up, a philanthropic agency's fund-raising abilities bear little relation to national needs. Every illness listed in the table, except alcoholism, affects more children than does polio; yet the magic of adroit promotion is such that nothing strikes more fear into a community than a single case of infantile paralysis. "Whenever polio strikes a community," Dr. Gaylor W. Anderson, Director of the Minnesota School of Public Health, has said, "the health department finds itself faced with two epidemics—one of polio, the other of hysteria."

To conclude, however, that cutting contributions to polio is the answer is manifestly absurd. The National Foundation for Infantile Paralysis has done important work in research on filterable viruses, leading to the perfection of the Salk vaccine. With the exception of the Arthritis and Rheumatism Foundation, it is the only major health agency which spends large portions of its income on direct aid to the sick. The foundation needs as much money as it can get. But so do the other health agencies.

Experts agree that allocation of

philanthropic funds on the basis of need can only become a reality when the agencies agree to cooperate with each other in informing the public, intelligently and honestly, on which drives need how much for what aims.

How much of the philanthropic dollar gets through to the beneficiary?

The percentages vary widely, but it may safely be said that even in many honest organizations—and the overwhelming majority of agencies in the philanthropic field are honest—sometimes as much as 40 or 50 cents of every dollar raised are "lost" by the wayside. Most of the loss is due to the high cost of fund-raising, particularly where multiple campaigns exist.

In the national health field, research is usually the most important function of an agency. Yet of the \$145,000,000 raised in 1956 for use in 1957 by the seven largest national health agencies in the country, the expenditures for research and for fund-raising were roughly equal—about 12 per cent each. Of the seven agencies, only two—the American Heart Association and the American Cancer Society—even approached 50 per cent in allocation to research. The others of the "Big Seven" are the National Foundation for Infantile Paralysis, the National Tubercu-

Do We Give Most Where Most Is Needed?

In 1956, ten national health organizations, each dedicated to the elimination of a particular type of disabling disease, raised a total of \$142,000,000. About 37,000,000 persons in the United States now suffer from the various diseases involved (the estimate is probably high, since no allowance has been made for duplication; i.e., the same person may suffer from both heart disease and arthritis).

Column 2 below shows the percentage of the total \$142,000,000 raised by each agency; column 3 shows the incidence, in terms of percentage of 37,000,000 cases, of the disease with which the agency is concerned.

AGENCY	Per Cent of total funds raised (estimate)	Per Cent of total cases (estimate)
National Foundation for Infantile Paralysis	36.0	0.27
American Cancer Society	19.0	2.0
National Tuberculosis Association	18.0	3.0
American Heart Association	12.5	27.0
United Cerebral Palsy Associations	6.0	1.3
Muscular Dystrophy Associations	2.3	0.5
National Association for Mental Health	2.1	24.0
Arthritis and Rheumatism Foundation	1.5	30.0
National Multiple Sclerosis Society	1.4	0.67
National Council on Alcoholism	0.1	11.0

losis Association, the National Society for Crippled Children and Adults, the United Cerebral Palsy Associations and the Muscular Dystrophy Associations.

One exception in the health field—and it is one of the smaller agencies—is the Damon Runyon Cancer Fund. Its total expenditures are devoted to research.

The polio foundation spent \$25 million on research in the eighteen years of its existence prior to the perfection of the Salk vaccine. In the last two years, it spent half that much on fund-raising alone. It spends more on fund-raising than the heart and arthritis agencies together can afford to spend on research. However, it spent more than any other agency on direct care of the sick.

The New York headquarters budget of the National Tuberculosis Association totals \$1,883,772 for the fiscal year ending March 31, 1958. Of this amount, only \$350,928—less than 20 per cent—is earmarked for research. The Association's Christmas Seal campaign eats up about 23 per cent of its budget. In contrast, the American Cancer Society managed to spend twice as much on research as on its fund-raising and administration, and the American Heart Asso-

ciation has an equally outstanding record: 55.1 per cent of its expenditures was on research.

How are fund-raising costs hidden?

There are no standard accounting procedures for private philanthropies. Agencies ordinarily bury fund-raising costs under a variety of euphemistic titles such as "public information," "education" and "social service." The 23 cents of every dollar raised which the New York affiliates of the National Tuberculosis Association spent on its Christmas Seal campaign were broken down, in an official report, as follows: "fund-raising expenses," 9 cents; "health education," 10 cents; "general expenses," about 4.3 cents. Many organizations which solicit primarily through the mails charge off their addressograph and postage costs partly or entirely to "education."

"Education" and "public information" are two of the most expensive items on many agency budgets. But even where a genuine "education" program exists—as with the American Cancer Society, for instance—it is of doubtful value educationally. The public is rarely better informed about a disease after a campaign than it was before. A division direc-

tor of the American Cancer Society put the matter bluntly: "Education may not save lives, but it sure raises money." In many instances, a hard-boiled accountant would put all, or nearly all, "educational" expenses under "fund-raising" costs.

Many organizations, such as the Arthritis and Rheumatism Foundation, fail to make available complete audits. The National Foundation for Infantile Paralysis regularly presents, in its annual reports, a diagrammatic pie sliced to indicate expenditures. None of the slices is labeled "fund-raising." Polio's unpublished 1957 report will show that last year's March of Dimes campaign grossed about \$54.7 million. The biggest expenditure, direct aid to patients, was nearly \$23 million. Professional and public information were lumped together at \$4.8 million; administration costs were put at \$2.2 millions. An expert, looking over this pie, would be impelled to re-slice it and label one slice "fund-raising costs, \$6.4 million." This represents only 11.7 per cent of income, and compares favorably with other philanthropic organizations.

Next Week: The United Fund drives and the non-cooperating agencies.

Perspectives on the Warren Court.. by Earl Latham

I RECENTLY HAD a conversation with two lawyers, one an American enthusiast for the work of the Warren Court in the field of civil liberties, the other an Englishman. The American lawyer ventured the view that the Supreme Court was on the threshold of great days, and felt that the Chief Justice of the United States was the man responsible for this turn of affairs. The Englishman was interested in the new biography of Sir Edward Coke by Catherine Drinker Bowen, and thought that it was a sensitive and able interpreta-

tion of the great English jurist of the times of Elizabeth and James I. The association of Coke and Warren in a casual conversation struck the American hard; by the time the last olive had been consumed, he was convinced that Warren was an American Coke.

There is a superficial plausibility to the idea. Coke was Elizabeth's Attorney General and Warren was Attorney General of California. Coke was Chief Justice under James and Warren is Chief Justice of the United States. Both Coke and the Warren Court asserted the supremacy of the "law" over the acts of political officials. But the fancied resemblance may not be pressed too closely. What is interesting about

the comparison is the mere fact that it occurred to someone to make it. Here is a measure of the emotional reactions which the Warren Court has provoked, leading to extravagances of praise and condemnation. While some observers are prepared to regard Warren as an American Coke, others, like David Lawrence, are prepared to abandon the principle of judicial independence which seemed so important in the 1930s, and to require the popular election of Supreme Court judges.

It is possible that the Warren Court deserves neither the adulation nor the abuse. Its admirers may think that it has at last brought social sanity to America after years of McCarthyite madness; its detractors

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may feel that Soviet influence has penetrated the highest bench. Both could be wrong. Social imperatives steer the course of the law over the years; the judges rarely decide the fundamental questions of power by themselves. Their institutional prestige is enhanced when there is widespread social agreement on these fundamentals, and the judges then give them effect. Their institutional prestige fails when they resist too long a predominating trend. And where there is no widespread social agreement on the fundamentals of public policy, the judges are confused and divided, hesitating either to affirm or deny and tending to follow the lead of the political branches. That the Warren Court has been emboldened to develop the law of civil liberty suggests that for the first time in twenty years the judges feel themselves standing on a stable social base.

IT IS OF some importance to try to appreciate what it is that the judges seem to have decided in the new civil liberty cases, and then to appraise the context in which they have occurred. In the last year alone, there were some twenty-nine cases dealing with civil liberty, a phrase that covers not only social freedoms like speech, but personal rights in courts and committees. Among them were the widely publicized *Watkins*, *Jencks* and *Sweezy* cases. Before these were the cases of the Pennsylvania Communists and of the California Communists. Still earlier were *Slochower* and *Konigsberg*. For over two years now, the Court appears deliberately to have undertaken to restrict the Congressional committees, the FBI, state legislatures attempting to enforce state anti-sedition statutes, bar association loyalty procedures and the federal government in the enforcement of the Smith Act. The word "deliberately" is of some importance here, for it suggests the freedom of choice which the judges have managed to develop for themselves since John Marshall, and thus to emphasize the nature of the *démarche* which the judges were not compelled by the law or circumstance to make, but are making by themselves.

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When one looks at the narrow holdings of the recent cases, there seems to be little justification either for the extravagance of the delighted or the biliousness of the critics. The *Watkins* case is no guarantee that the judges won't endorse 99 per cent of Congressional committees and what they do. *Jencks* does not cripple the FBI; it merely requires that when the government puts an FBI man on the stand, access to the witness' original report may be obtained by the defendant with respect to matters concerning him. No blow for academic freedom was struck in the *Sweezy* case, because (1) *Sweezy* wasn't an academic and (2) the defect found by the Court in the attorney general's authority to inquire can be cured by the state legislature, which had failed to give him full credentials. In the case of the Pennsylvania Communists, the Court simply gave to the defendants what the Solicitor General had wanted the trial court to give them. In the case of the California Communists, Justice Brennan made a strained definition of the word "organize," which Congress may wish to re-define; and if the defendants aren't had on advocacy, they may be on "membership." In *Slochower*, the net effect was to say that the defendant could plead the Fifth Amendment once, but not twice; for the Court ruled that while it was improper for the Board of Education to fire him automatically just because he had pleaded the Fifth, it *was* proper for the Board to fire him on the ground of unfitness when he pleaded the Fifth in hearing.

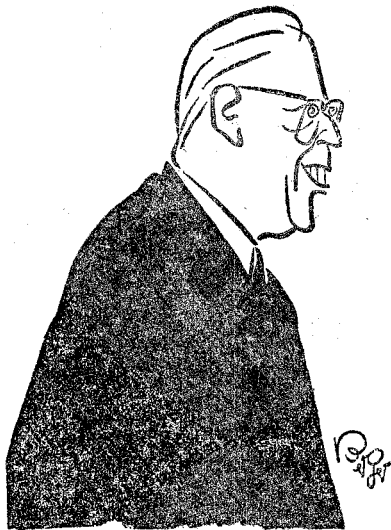
But although the actual holdings of the cases are narrow, the dicta are broad and the general reaction has been sensational. By May of 1956, some seventy bills had been introduced in Congress which would have affected the work of the Supreme Court—bills introduced by Congressmen who were excited by such rulings as the desegregation decision in *Brown v. Board of Education* in 1954, and the *Nelson* case, in which the Court invalidated state sedition acts in forty-two states, Alaska and Hawaii. Former Justice Byrnes pointedly suggested that Congress could

control the appellate jurisdiction of the Supreme Court, presumably to prevent it from deciding cases that Congress wished to withdraw from its jurisdiction. Neither this nor other proposals for curbing the Court or regulating its personnel succeeded, but the impulse "to do something" was unmistakable.

During and after the 1956-1957 term of the Court, the agitation against it seemed to increase. The attorney general of New Hampshire, who also happened to be the head of the National Association of Attorneys General and who was one of the parties in the *Sweezy* case, attacked the Court last June on the ground that it was torturing the Constitution "out of all rational historical proportion." The New York *Daily News* referred critically to what it called "judge-made chaos." The Senate Internal Security subcommittee rebuked the Court for what it described as "judicial setbacks" suffered by agencies of the government in the fight to combat internal communism.

BUT THE Court was not without defenders in the bar and the press. As spokesman for one hundred lawyers of the American Bar Association, George Wharton Pepper of Philadelphia made public their resolve "to defend the Rule of Law against the present challenge" to the Court by its detractors, even though some of the signers were opposed to specific Court decisions. And the *Christian Science Monitor*, in a recent editorial, said that "personal attacks on justices, reckless suggestions that communism rules them, attribution of partisan motives and moves to curb the Court's independence—these, if successful, would 'shoot the umpire,' the indispensable arbiter and guardian of the Constitution." Although less impressed by the role of the judges as symbols of the "Rule of Law" and as "guardians of the Constitution," Thurman Arnold viewed the recent trend cheerfully, and said of the Court that it is becoming "a court of inspired choice and policy . . . rather than a court of law as we used to know it."

In this remark lies the crux of the whole controversy. Despite his



Chief Justice Warren

assertion that it was formerly "a court of law as we used to know it," the Court is now doing, somewhat more obviously, only what it has always done, i.e., making social policy and interpreting the Constitution in such a way as to give it the juristic elbow room it requires. In a paraphrase of Roscoe Pound and the judges, the law is a complex system for distributing the "goods" of society, and the function of the judges is to balance and compromise conflicting claims to these goods, making them go around as far as possible with least friction and waste. The judges like to say that they give effect to the felt needs of the times, and this is true of them all, except that some judges are more feeling than others. To give effect to the felt needs of the times is to re-interpret the Constitution so that today's social policy is legitimized in terms of yesterday's symbols.

The Supreme Court has been making policy ever since John Marshall assiduously read into the law of the land the Federalist version of the Constitution, with which some parts of the country certainly disagreed. Since then, think of the extent to which the judges, more or less all by themselves, have fashioned key concepts of power! Among these are the doctrines of federal competence and dual federalism, which alternately restricted the states and increased their authorities. The whole development of the law of interstate commerce was

judge-made. The concept of the police power and its opposite conception, substantive due process, gave the Court free decision to say which state statutes it wanted to declare unconstitutional. The entire structure of the rules limiting administrative agencies was created by the judges to protect their institutional monopoly to say what the law is. The judges imported natural law into the Constitution and then threw it out. The judges decided that speech could not be coerced unless there was a clear and present danger that some substantive evil would befall which Congress had a right to prevent. And then the judges decided that Congress itself could decide when the danger was clear and present.

BUT IT IS really unnecessary to multiply the examples of judicial policy-making. The hinge of curiosity turns not on the fact that the judges have been making basic policy for seventeen decades, but on the question why they have suddenly, it seems, become "liberal" in their policy. Neither the new appointees, as such, nor the political predilections supposedly characteristic of the parties responsible for their appointment, is sufficient explanation. The answer, as was suggested earlier, may be found outside the Court as much as in it. Judges are dependent for the enforcement of their decrees upon the support of the political branches; and for their prestige and reputation within the federal government, they are dependent upon outside social constituencies which will uphold them when their process is challenged. If the judges could not count upon these supports, there would be little or nothing for them to judge. As they say of themselves, they have neither the purse nor the sword.

These class constituencies outside the Court may change, and when they do, the Court's prevailing tendency changes. New times and new needs make new laws. Thus the rich, the well-born and the able supported the Court when it was dominated by Marshall. In the days of Jefferson and Madison, the Federalist hegemony was challenged but

not overturned; when, with the election of Jackson, the hegemony was overthrown, the Court came to accommodate the law to the social views of the new dominant group. From 1835 to 1857, the Court increasingly found itself in conflict with the rising industrial interests of the North, and its prestige collapsed when it attempted, in the *Dred Scott* case, to perpetuate the interests of the slave-holding community at a time when these interests were about to fall.

After the Civil War, the Court re-interpreted the Constitution to fit the juristic requirements of the new form of enterprise that came to dominate the economy. Thus, fruits of the war such as the guarantees of the Fourteenth Amendment were withheld from the Negroes, for whom they were intended, and bestowed instead upon enterprisers. The corporation became a person entitled to life, liberty, property and the equal protection of the laws. The development of the substantive conception of due process became a guard against gross intervention by the states in the operation of the economy, which was in private hands.

The prestige of the Court was at its very highest during the period from the Civil War to the New Deal, when it collapsed once more. It collapsed because the judges, like those of the Taney Court, were bent upon preserving a distribution of social power and influence which the populace had already effectively altered. In 1932, the pattern of dominant power was revised in favor of the "disadvantaged" groups which coalesced to elect a President and a Congress. When, after the election of 1936, it appeared that the alteration was basic, President Roosevelt precipitated the crisis with the judges which forced them to withdraw their attempt to protect the business community from the New Deal. The judges abdicated power over the economy that they had enjoyed since the Civil War and yielded to the political branches the regulation of business enterprise.

IN THE post-Civil War period, the corporate interest of the Court and the prestige of its members were en-

hanced when the justices began a massive development of civil liberty—a Manchesterian civil liberty designed primarily to protect *laissez faire* economics, but new frontiers for freedom nevertheless. It was in the name of this civil liberty, rooted in natural law, that the reputation of the Court reached its apex. After the judicial disaster of 1939, the Court, under Hughes, once again sought to recover its prestige, this time by the development of a non-Manchesterian civil liberty which emphasized personal rather than property rights. (Before this time, the Court had been largely indifferent, when it was not actively hostile, to non-Manchesterian civil liberty.) After 1937, the judges broadly extended the protection of the First

and other amendments in cases involving speech, assembly, union activity, religious testimony and the press; and the restoration of the Court's influence in the federal government was well launched. Unfortunately, the hot and cold wars then intervened, and the libertarian project had to be given up for a time.

IN THE 1920s, the prestige of the Court was high because there was widespread social agreement on the fundamentals of public policy to which the judges gave effect. After 1937, the prestige of the Court was low because it had too long and too obviously resisted a predominating social trend. In the 1940s and early 1950s, there was widespread dis-

agreement on the fundamentals; and the Court, like the country, confused and divided, tended to follow the lead of the political branches. With the onset of the great *détente* in domestic affairs, dating from the first election of Eisenhower, the absent stability was rebuilt. For the first time since 1937, the judges have been able to turn to the unfinished business begun by Chief Justice Hughes: namely, the reconstruction of the Court's prestige by the extensive development of the law of civil liberty. In a word, Eisenhower symbolizes the toleration which society can extend to civil liberties when it no longer—for the moment at least—feels divided, insecure and bereft.

Sputnik may reverse this.

FOG OVER WESTMINSTER... *by Paul Johnson*

London
NOBODY IN BRITAIN was very much surprised that only 45 per cent of the electors bothered to turn out for the latest by-election. The political temperature is low at Westminster and lower still in the country. Both parties seem to be suffering from a crisis in leadership, itself a reflection of the fact that neither seems to know where it is going, or, indeed, where it wishes to go. The stock of Mr. Macmillan, who enjoyed a brief hour of glory this spring—at least among his own supporters—by blowing a loud, challenging blast on an old-fashioned Tory trumpet, has fallen again, and the latest public opinion polls show he is the most unpopular Prime Minister since Chamberlain, the apostle of Munich. For a time, Tory MPs drew great satisfaction from the fact that Macmillan belonged to no less than six clubs—the Turf, Carlton, Pratt's, Buck's, Athenaeum and Beefsteak—and, what was more important, used them as a background for policy-making. His first evening as Prime Minister

he spent at the Turf, downing oysters and champagne, while he drew up his Cabinet list with the Government chief whip. This, said the Tory bloods, was the genuine article, a full-throated answer to Gaitskell egalitarianism and Tory "welfare-statists" like R. A. Butler. They even repeated with approval Macmillan's clubroom reference to his Foreign Minister, Mr. Selwyn Lloyd, as "that middle-class lawyer."

Alas! The mood of euphoria has drifted away on the swelling tide of unpalatable decisions. Mr. Macmillan may be the son-in-law of a duke, but just the same he agreed to use the Suez Canal again on Nasser's terms. He may have promised to "put the 'Great' back in Britain," but his one positive foreign-policy gesture so far has been to cross up our old Suez ally, France, by shipping arms to Nasser's client, Bourguiba. Gratifying though it may be to see a Tory premier settling affairs of state over a bottle of champagne, the fact remains, as Tory members ruefully confess, that most of their middle-class supporters, who are clamoring, without success, for lower taxes and a tough line with the trade unions, can rarely, nowadays, afford

even a modest glass of claret.

Hence the mutterings in Westminster Tory circles that Macmillan is "trying to do too much," that the feudal City dinners in which he takes so prominent a part are very jolly and all that, but hardly leave him enough time and energy for serious policy-making in the age of sputniks and 7 per cent bank rates. When Macmillan gave way to an outburst of temper last month, snapping at Mr. Gaitskell in most unparliamentary language, the Tory press chorused that he was looking tired these days, and that he should shoulder some of his burdens onto somebody else. In Tory language this means it's time for a change.

It is also widely held that Macmillan's judgment was sadly at fault in refusing, when the Opposition first demanded it, a public inquiry into the bank rate "leak." So far, the inquiry has produced little evidence about a leak, but it has disclosed something which very few people realized: that directors of the Bank of England, the main policy-making organ of British finance, also have connections with private firms, and that serious conflicts of interests can, and do, arise. To many people this

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seems a much more fundamental matter than a mere leakage of information on one particular occasion, and it may give rise to something which Tories fear almost more than anything else—a demand for a thorough inquiry into the workings of the City. In view of this, Macmillan's initial refusal to hold a public inquiry—having already held a private one which disclosed this state of affairs, and recommended no action—can be presented in a very unpleasant political light.

Macmillan's stock dropped still lower after the foreign-affairs debate which followed the Paris NATO meeting. Mr. Bevan was in his best form and made immense capital out of (1) the unpopular plan to establish U.S. rocket bases in Britain and (2) the general impression that we are now Mr. Dulles' last reliable satellite. The Government emerged badly shaken and with a reduced majority; indeed, some of the most trenchant criticism came from Macmillan's own ranks. From this parliamentary disaster sprang the Prime Minister's new proposal for a non-aggression pact with Russia—a desperate attempt, in the eyes of most people here, to produce a British initiative which would be popular and at the same time could not be construed in Washington as a betrayal of the Western position. As such, it cannot be called an unqualified success; it has scarcely raised a ripple in Britain and seems to have caused intense irritation in the State Department.

FINALLY, to crown everything, came Mr. Thorneycroft's mysterious departure—the first resignation of a chancellor over fiscal policy since 1887. The issue seems to be clear enough—a head-on clash between the Tory hard core, determined to halt inflation even at the cost of a battle with the unions, and the bulk of the party, led by Macmillan himself, determined to win the next election even if the pound goes the same way as the franc. But Macmillan's failure to keep the clash within the confines of the Cabinet, and avoid an open fight on the floor of the House of Commons, which now seems certain, is a grave reflection on his abilities



Prime Minister Macmillan

as a party manager. Even his supporters have reason for worry.

Fortunately for the Tories, however, their current mood of doubt and demoralization is echoed, and more than echoed, on the Labor benches. By-election statistics show that Labor could expect to return to power if a general election were held today, and at the annual conference at Brighton a massive program of social legislation was duly adopted by impressive majorities. The party now has a program and there is light in the tunnel ahead. And yet the spirit of the rank-and-file, both in Westminster and in the constituencies, remains obstinately low, and the Opposition's parliamentary performance in the last three months has scarcely raised a headline in the popular press. Here, too, the critics have turned on the leader. Mr. Gaitskell, they say, is too busy discharging the obligations of a future prime minister to devote his time to earning the title. His temptations are not City dinners and clubland, but invitations to lecture to Indian Socialists, Fabian tea-parties, trips to Europe for earnest discussions with well-meaning nobodies, and annual Labor Club

dances in darkest Yorkshire. It is said that the meticulous Gaitskell books his engagements six months ahead, and then refuses to change them to respond to a sudden twist in the parliamentary or international situation. Hence the NATO conference, which involved the nation in fundamental and far-reaching decisions, and had not even been debated in the Commons, found the leader of the Opposition 4,000 miles away in India, giving pep-talks to Hindu trade-unionists.

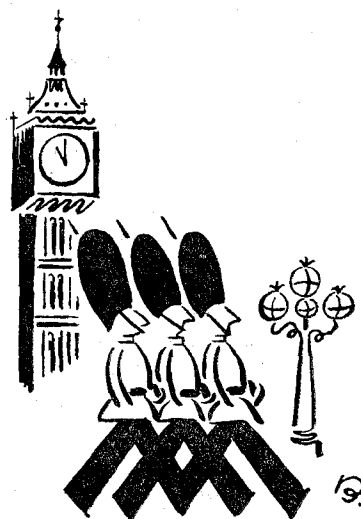
LABOR'S difficulties, however, do not arise simply from a lack of leadership. The fact is that the Brighton conference, though it gave formal endorsement to policy documents, did not really provide the party with a coherent policy, with what might be called a *political image*. British electors, opinion research shows, vote not so much for any particular program as for the general image which a party presents. Until recently, Labor stood for state welfare and against private enterprise. In 1957, this may or may not have been an attractive image, but it was at least a clear one. The Gaitskell policy of state share-buying, though ingenious in many respects, has destroyed the old image and failed to replace it with a new one. To most of the public, Labor has written off nationalization as "no longer applicable" and now appears to be coming to terms with the capitalist system. In concrete terms, the change may merely be one of emphasis, but in terms of the political image it is decisive. For if, people argue, Labor is no longer inherently and fundamentally opposed to private enterprise, if it merely wants to tinker with the capitalist system, why vote for it at all? Why not vote for the party which really believes in capitalism? These doubts are not confined to the electorate; they are also, and increasingly, expressed by Labor MPs themselves, who are frankly perplexed about the long-term future of their party.

Nor is this all. At Brighton, the conference, thanks largely to an abrupt change of position on the part of Aneurin Bevan, rejected the demands of the party militants for a unilateral British renunciation of the

H-bomb. The event, though it saddened many of Nye's old friends in the party—"there's nobody quite so prim as a reformed rake," was one wistful comment—really settled nothing. Labor agrees that Britain should keep the H-bomb for the moment. Yes, but what about rockets? Should we join in that race, too? Do we accept the principle of the "limited deterrent" and start manufacturing our armory of tiny A-bombs? And do we agree that the other NATO nations—including Germany—should do likewise? Labor has no answer to these questions, though by its silence it seems to have acquiesced in the Dulles-Macmillan policy of a bigger, more highly integrated NATO, riding hell-for-leather in the nuclear-arms race. Labor, for the present, has no foreign policy and no defense policy. This explains why there has been no foreign-affairs debate in the present session, and why the last defense debate ended in a much-publicized bout of fisticuffs in the lobby—the antagonists being two prominent Labor MPs!

Yet Labor's hesitation to make a decisive break from the arms-race policy is all the more surprising in that there is a rising ground swell of opinion in favor of some British initiative. Intellectuals like Bertrand

Russell and J.B. Priestley, who argue that British renunciation of the H-bomb actually increases our national security, have now been joined by very many ordinary men and women who were startled out of their complacency by the news—elicited accidentally from a reluctant Selwyn Lloyd during the course of a Commons question—that at any given moment, American Strategic Air Command aircraft, carrying H-bombs, are cruising about over their heads. Nor have they been comforted by government reassurance that accidents are impossible, for the same was said of the nuclear factory at Winscale, which became



overheated two months ago and showered the whole of Cumberland with radioactive ash.

With both parties in a parlous state, with growing disquiet at the technological failures and lack of leadership in our principal ally, with the highest bank rate since the world slump, with the *Entente Cordiale* in tatters and more violence looming up in Cyprus, Britain is facing the new year in anything but a confident mood. Even the British policeman, that reliable symbol of national prestige, appears to have let the side down by involving himself in the worst corruption scandal for many years, in, of all places, the pleasant seaside resort of Brighton, where Londoners go for their more ebullient weekends. Meanwhile, the British trans-antarctic expedition which might have brought some crumbs of national comfort to the festive season, has got itself immovably stuck in the ice; there was even a strong rumor—which proved mercifully unconfirmed—that our Christmas turkeys were poisoned with arsenic. No wonder that the revolutionary news that women are at last to be admitted to the House of Lords has raised scarcely a flicker of interest among London office workers as they hurry home through the fog.

THE SCANDALOUS AD-TAX... by David Cort

OVER THE FAT and smiling land of advertising (1957 volume: \$10 billion plus), a cloud no bigger than a politician's hat came scudding in November, 1957. Taking dreadful shape over Baltimore, it had before the end of the year terrified St. Louis, Kansas City and the whole state of Virginia; and it was still an untried baby.

It all began when Baltimore's Mayor Thomas D'Alesandro, Jr., who has firm command of his all-Democratic City Council, looked

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about for some new taxes to balance his city budget at a moment when he was also campaigning for the Democratic nomination for governor of Maryland. D'Alesandro is experienced, imaginative, and also impulsive. He slapped a tax on business inventories, to the special grief of the chemical-fertilizer companies. Then he proposed a tax on sewerage, a version of the old water tax.

Presumably in reference to the sewerage-tax proposal, the cartoonist for the great Baltimore *Sun* drew a lampoon of the Mayor outside a pay toilet. The impropriety was a little careless. There is a story, so far not pinned down, that a reporter heard

the Mayor say, "That cartoon will cost the *Sun* five million bucks." Since the remark fits too patly into the usual retroactive justifying legend, it can be taken with great reserve. It smells of newspaperman's bar talk, after the event.

Anyway, Mayor D'Alesandro suddenly had a new idea for a tax: a levy on advertising. The medium—that strange word means newspaper, periodical or TV-radio station—was to collect from the advertiser an additional 7½ per cent of the advertising bill, add another 2 per cent out of its own pocket, and pay these surcharges to the city. The thing had a stark revolutionary simplicity. For

the first time, government had noticed that a lot of money was moving around without doing the people any particular good—and was, indeed, aimed at eliciting vastly larger amounts of their money. How much thought the Mayor put into what the money was doing, I do not know; but some of that can be supplied here, later.

Immediately, a thrill of sheer agony shot through the Baltimore business community. Admen, merchants, manufacturers and media men—incoherently muttering “Immoral!”—stumbled into battle stations. Their committee chairman, Wilbur Van Sant, harangued the quaking battalions: “The advertising-tax idea will spread like wildfire across the country unless it is stopped in Baltimore. We stand at the hinge on which this thing turns.”

Don John of Austria, stopping the Turks at Lepanto, could not have put it better.

THE BATTLE cries ran down the long lines. The *Baltimore News-Post* (Hearst), which sells 232,000 copies daily, called the proposed tax “a threat to the free press.” The *Baltimore Sun*, whose morning and afternoon editions have a combined circulation of 410,000 across the state, warned that the tax would drive business out of Baltimore. The Mayor, a *Sun* editorial declared, had been growing steadily “more and more anti-Baltimore-business.”

“Cry-baby nonsense,” the Mayor replied, unless the *Sun* had meant that “I am more interested in the average Baltimorean . . . than in adding to the already swollen profits of big business, of which the Sun-papers are a most prosperous part.”

The hand-to-hand combat was joined at a six-hour public hearing which the Mayor disdained to attend. Here it developed that the media men were too proud or too shy to argue their own case frankly (revealing a basic, vulnerable vanity in journalism that deserves closer examination). The merchants were no more articulate than usual. The admen had to carry the attack. Apart from the theory that less Baltimore advertising meant less Baltimore business, the argument ran that

advertisers would switch to national magazines and outside-Baltimore TV-radio stations, such as Washington’s.

To this a city councilman answered, “Advertising rates have gone up continuously in the past ten years, but I notice last Sunday’s *Sun* had 280 pages.” A city witness calculated, “On a \$2,000 page ad in the *Sun* the tax ostensibly is \$175. But the advertiser is in the 52 per cent federal tax bracket and the 5 per cent state tax bracket. After tax deductions the actual net cost of the tax on that page would be only \$65, which won’t buy enough space in the *Sun* to cover a package of cigarettes.”

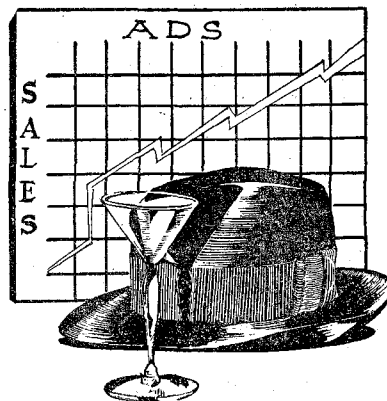
Actually, the businessmen’s sense of outrage seemed merely verbal and shallow; the real, unexpressed horror, as at a sacrilege, was reserved for the 2 per cent tax on the media.

The businessmen had found an odd ally: labor lawyers who argued that the tax on advertising might destroy some unspecified jobs.

The Mayor, even in absentia, seems to have sensed the dynamics of the situation, as given here. He proposed to reduce the advertiser’s tax from 7½ per cent to 4 per cent, but he left the medium’s tax at 2 per cent. The admen were not at all consoled. One said, “[We] were interrupted and insulted . . . It was an inquisition.” For the battle at the hearings had been a disaster. The Mayor’s men had done most of the talking. The spirit of Don John of Austria had not kept its appointment. The Turks had taken Baltimore.

Next day the Baltimore City Council approved the tax on advertising, to take effect January 1.

In the following days, I noticed



with interest that the average citizen had never heard of the Baltimore advertising tax, but that a mention of it could bring a publisher, TV manager or adman to quivering attention. The episode was esoterica, though it should have been of concern to citizens everywhere.

The invective against the tax was all in trade publications: “dangerous and stupid,” “foolish,” “utterly and completely ridiculous,” “utmost danger to the whole economy,” “direct violation of the freedom of the press guaranteed by the United States Constitution.”

By the time the tax became effective on the first of the year, fifteen suits had been filed in Circuit Court by Baltimore’s two newspapers and three television stations, as well as several of its leading merchants. The suits contend that the new taxes are unconstitutional, arbitrary, discriminatory and in restraint of trade.

The word “immoral,” freely used in the early invective, has been dropped as a description of Baltimore’s tax bite. (Anagram fans at least should notice that the word, Baltimore, is an anagram of Moral Bite.) Yet ultimately the legality of a tax on advertising must coordinate itself with the general morality of advertising in the life of American media. And this, as promised, will now be examined, in case Mayor D’Alessandro scamped it.

LOOKING at American media coldly, one must sooner or later come to the naked definition that they represent a “throwaway” culture. They are primarily a come-on to sell consumer goods, giving away entertainment and information incidentally, for nothing or less-than-cost, like handbills thrown on one’s doorstep.

TV and radio are, of course, “throwaways” in the literal sense. The same is all but literally true of the ten-cent chain-store magazines such as *Woman’s Day* and *Family Circle*, which have their own distribution system. It is essentially true of the fifteen-cent Baltimore *Sunday Sun*, with its 280 pages, and of most other great newspapers.

What is not so clearly realized is that the glossy mass-magazines are “throwaways” too. The average pro-

duction cost of a *Time Inc.* mass magazine is forty cents per copy, *Life* somewhat more, *Time* somewhat less. *Life's* circulation income (subscription 5,000,000, newsstand sale 1,000,000), is under thirteen cents per copy. The other mass magazines are selling at similar huge deficits. They are obviously not in the business of selling magazines, except incidentally. If that were all they did, they would all go broke overnight.

What is their primary function? It is, of course, to publish advertisements.

The operation might be described as merely renting the manufacturer of a commodity the magazine's subscription list and newsstand outlets for one mailing. But that would not describe what is happening. The magazine actually rents out its reader's faith in its editorial morals to Procter & Gamble or General Motors. To prove it, the magazine even binds the advertiser's sales pitch in with its own editorial matter, and delivers the combination as a package called *Life* or *McCall's*.

TV and radio even let the advertiser dictate the nature of the editorial matter.

THE primary commercial function of the magazine, newspaper or TV-radio station is thus to make a sales-pitch. The preliminary jugglers and pretty girls are only to attract the crowd; the entrance fee, if any, is only to keep out the cheap skates who aren't worth talking to.

The consequent massive and lavish throwaway culture of America must inspire some awe. It dwarfs Rome's bread-and-circuses or the hope of heaven or communism's wildest Utopia. This one is here, all for nothing or next to nothing.

The temptation is strong to agree with the Baltimore admen, to say "so what?" and to "fall asleep counting your blessings." Much of the free entertainment is very good, even by cash standards. And when it is very bad, the people quickly tire of it. Why tax the geese laying these beautiful gilded eggs?

First, the operation is flagrantly taxable. Ultimately, government will not be able to resist it.

Second, the throwaway culture is

rapidly destroying its last remaining non-throwaway elements: books, theatre, movies, night clubs, non-broadcast sports and many intellectual magazines. Gresham's Law, or a variation, seems to be at work.

Third, it is probably dangerous and anti-social for anything to pretend that it is doing one job, and actually to be doing something different and opposite. A free press is a noble ideal, but a press that is merely free to the consumer is not what was meant by the flexible word "free."

A hired, gratuitous press cannot be, in the original sense, wholly free. A small example can be given. One year certain Detroit cars had an innovation that had the dazzling feature, if one steered first left, then quickly right, left, of going completely out of control. The idea of suing the manufacturer, lately revived in Congressional hearings (*The Nation*, April 13, 1957), under the Restatement of the Law of Torts, did occur to a few people. The press did not report these suits. People not bright enough to think of suing were not helped by the medium they depended on for moral information about their world. I know some people still scarred by that year's carnage.

Fourth, the free entertainment looks wonderful, but has little nourishment and less flavor. For all its mock heroics, it adds little to the people's thought or conversation. The talk gets progressively worse or dies entirely as all eyes glaze on the television set.

THE corruption of the press by advertising hunger has been the subject of investigation for the past year by the International Labor Press Association. Labor is concerned about its own press. It doesn't like the boast that "an advertisement in the labor press is an automatic recommendation to the reader." It likes even less the racketeer blackmailing of businessmen into paying for a full-page ad saying, "Greetings from a Friend of Labor."

The taxability of a particular medium can most easily be tested by the question: Which is the means and which the end—advertising or editorial matter? If advertising is

the real end—as financially it overwhelmingly is—one can see no objection to Baltimore's tax on advertising.

But there are differences among media. For example, *Family Circle*, at 10 cents, and *Good Housekeeping* at 35 cents, have about the same number of readers and charge about the same for a page of advertising. Yet *Good Housekeeping* gives a good deal more editorial value. If ad rates mean anything, the advertisers seem indifferent to which of them makes a cheaper editorial effort; all the advertisers want is a shot at so many readers. This sort of cynicism suggests to me that I am actually the last man in the business to realize that the throwaway culture is already here. I feel stupid.

To determine whether any particular medium's advertising income is a means or an end, simply compare it to circulation income. If advertising income is the greater, it is an end.

It would be good to have a tax that encouraged the great, hardworking newspapers (such as the *Baltimore Sun*) to do still better by their readers.

THE PREDICTION that the tax on advertising would "spread like wildfire" from Baltimore proved a brilliant piece of prophesying.

Almost at once, an alderman in St. Louis announced that he would introduce legislation for a similar tax. The Advertising Federation of America rallied its members against the new outbreak and at last account was doing well, "cooperating" with the city administration to find other sources of revenue. The threat flickered briefly in Kansas City. There was a rumor, unconfirmed, that the San Francisco City Council had written Baltimore asking for facts about the new tax. And then, at the end of the year, the Mayor of Norfolk, Virginia, proposed that the new tax be applied to the whole state of Virginia by the legislature. Actually, everybody was waiting to see how the anti-tax suits made out in the Baltimore courts.

One nightmare was in the back of everybody's head. What if New York City should get the idea?

BOOKS and the ARTS

The Writer as Nag

Herbert Gold

THE STORY is told about that charming and gifted woman, Mary McCarthy. An old friend, meeting her in the street, asked, "How are you feeling these days, Mary?"

"Fine! Wonderful! I'm writing a story against X, and I'm writing a story against Y, and I have a whole novel planned against Z."

This particular anecdote may or may not report an actual encounter, but it usually can be counted on to produce a sickish grin among Miss McCarthy's faithful readers. Certain appropriate items of apocrypha find a privileged station in the ante-chambers of history, such as the story that Napoleon read *The Sorrows of Werther* during his Egyptian campaign. At any rate, a number of contemporary writers put unwanted lines of fret between the eyes of their friends — these lines mark out the bull's-eye. Scolding and nagging, shrilling gossip and morality, some writers publicly strip the still warm bodies of their former lovers. They rifle psyches, crying shame at imperfection of soul or maudlinity of rhetoric. Holding a mirror at their own noses, they claim that nature is ugly. Even when we do not know the people concerned in their work, we feel something obscene in the process—though we may read with the rapturous guilt that we would take to a literate *Confidential*.

Tentatively (that is, with open hostility) let us challenge the literary hex-mongers.

Is it a vulgar puritanism that asks a writer to respect his life by not turning it directly into commerce?

A writer of fiction must write about what he knows, and there is a sense in which every book is au-

tobiographical, including the bank-book. But also there is knowing and *knowing*. In real fiction the identifying marks are altered in the imagination, and sometimes altered so deeply that the author himself is not conscious of modeling his characters on living individuals. Amazed and agape, he is taken on the high marvelous ride of a story into the heavens of possibility. The word "novel" means "new." The novelist pleases himself by playing with absolute freedom, like God, and makes a new world of atoms and ribs. His people are the more actual for being unjustifiably invented.

Sometimes. When the imagination sings at its best.

This describes the writer who uses what he has, and has something to use, and thus tells secrets that he does not even know.

But there is this other sort of writer, who reminds us of the scavengers who tear down old buildings in order to re-use the rusted plumbing and the bruised bricks. They may make emergency housing, but it lacks solidity and cannot be trusted. The writer as scold cannot bear to let his sleeping dogs lie. Friendships, love affairs, rivalries do not fade away; they are punished and promoted into wood pulp. This writer plays out in his work the universal failing of insisting on having the last word. Homeward bound with his troubled pride, he laments, recalls, justifies, distorts, chortles over what he might have said—and avoids the crisis of imagination. For the sweet risks of art he substitutes the belly-patting pleasures of self-congratulation and admonishment of others. He can gossip and punish and be rewarded for a job of public wrecking. He is a peculiar champion at dismantling, demolition. Why peculiar? He is both victor and battle historian in wars known only by his report.

All fiction tries to tell "true" stories—true to the author's eye and judgment of his world, true to the possibilities of his fantasy, true in specific emotional, intellectual, even anecdotal details of experience. The novel of manners reflects the gloss of a time; the metaphysical novel tries to tell the "Truth" about the way things Should Be. Rumination is the writer's chief occupational delight, and he ruminates in the pastures of his experience.

Very well. Even the malicious roman à clef has magnificent classical models. *The Possessed* began in a satire on Turgenev, although Dostoevsky rapidly departed from his original scheme in order to secrete painfully original work of mastered experience, i.e., created fiction. We no longer think of Turgenev as the superficial liberal of *The Possessed*; we read about Tolstoy's hysterical women as hysterical women, not as his wife. Surely our unease before the contemporary caty novel will be soothed by time and distance. Under the eye of eternity, we will all sleep at peace and the monuments to our lives will be judged more for what they say to those unborn grandchildren of ours than for what they say about us.

NEVERTHELESS, it would be hubris, that wild pride which leads a writer to believe that libraries are temples, to forget that we exist in the here and now and shall exist only in the immediate tomorrow. Today and tomorrow, the stew of gossip and malice and moralizing craft, passed off as a story, should make us judge harshly both the writer and ourselves as readers. Are we taking up a novel or an apology? Is a story properly a weapon? At what price does a novelist deal from the bottom of the stacked cards of his life, flub the ducks in the shooting gallery of his career, wash his dirty linen in public print? (Let the many metaphors of this last rhetorical question stand for indignant protest.)

HERBERT GOLD is the author of *The Man Who Was Not With It* and one of the three contributors to the recently published *Fifteen by Three*.

I would like now to point out, first, a couple of the psychological variants of the backfence fiction and, second, to suggest what provides its special charm and special poison for the reader, be he in the know or not.

The most successful contemporary example of the kiss-and-tell story is the serial begun as *The Company She Keeps* and still continuing. The general line in most of Mary McCarthy's cautionary tales can be expressed as follows: "Harken, reader. These other guess-whos are ugly, comical, foolish. I am unhappy and confused, but sensitive, sweet, beautiful and fine-souled beneath it all. See how I am hurt by the world."

Another popular practitioner is Leslie A. Fiedler (the sport is not an absolutely feminine one). He has not yet given us a novel, but his stories over the past ten years, first mainly in *Partisan Review* and now in *Esquire*, propose the following scheme: "Pay close attention. Those other guess-whos are ugly—and so am I! They are comical—and so am I! They are foolish—and so am I! But only I am also exclusively I, tormented and tormenting." And there is a special somber note of tenderness for the very neurotic hero of such a story as "Pull Down Vanity" (*Partisan Review*) or "Nude Croquet" (*Esquire*). It is that exacerbated egotism which is sometimes called "self-hatred"—a love which turns to devour itself, but self-love nonetheless.

THESE two examples (others can be made available upon request) are both those of prominent literary figures who have given signs of considerable yearning toward inventiveness, particularly in criticism. If not creators of important imaginative criticism, they have at least written fanciful commentaries on other writers. Indeed, Mr. Fiedler's interpretation of a mythical Mark Twain seems to be fiction of a higher order than any of his stories. Why, then, do these writers produce an ingroup anti-fiction in which their friends or enemies are slightly veiled and they themselves keep skipping about, moodily soliloquizing like stage managers hoping to be chosen for Ham-

Anacreontic

(from the Greek)

Quickly, boy, get a bowl of wine,
Water jug, and a daisy chain.
Crown me then with the victor's wreath—
I've been wrestling, and once again,
Cupid is underneath.

DAVID RATTRAY

let? Why not come right out and perform explicit autobiography? (Miss McCarthy very prudently seems to have taken this suggestion some time before it was made; her last book is labeled a memoir.) Why claim the privileges of fiction while ignoring its responsibilities, chief of which is to be joyous?

IN THE nag-writer there seems to be both a fatigue and a consequent resentment of the imagination. An obsessive concern with the private assertiveness of a hurt soul leaves no room for the lazy freedom of fantasy. The past is alive in the here and now as unresolved conflict, as irresolute tic; the resources of the imagination are consumed in self-justification; the imagination as liberal pleasure and inquiry into all possibilities of the evidence of the past is mistrusted. Such a personality mobilizes itself in a permanent war economy, with consequent efficiency in manufacturing weapons and inefficiency in the more gentle basic research of pleasure, love, chance. Imagination as imagination cannot survive continual bombardments of shame.

The reductionism of Mr. Fiedler's essay on *Huckleberry Finn* (Huck and Jim were guilty lovers, exactly as *Moby Dick* is the story of Ishmael's sordid passion for Queequeg) and the explosive, entertaining, and often shrewd bitchery of Miss McCarthy's theatre criticism both confirm and console their authors as fabricators of fiction. Mr. Fiedler has repeatedly confided to print his boredom with the contemporary novel.

Blame for the popularity of commercial gossip-mongering in the form of pseudo-fiction is not the writer's alone. Readers who experience the delicious shiver of knowing or suspecting that real people are being cooked up with moral gravy must share in the guilt. It has been sug-

gested by social psychologists that gossip serves as a surrogate for intimacy in a time when real intimacy is difficult. Probably real intimacy has always been difficult; surely gossip has always been a necessary social leaven. The illusion of closeness in our wide, busy America is sought in many ways. Our concern with baseball, an intrinsically boring sport, probably has to do with the generation of material for conversation. Most of us do not play baseball; we may seldom even watch it; but we can signify our general good will and involvement with others by asking, "How are the Dodgers doing today?" A magazine like *Confidential* serves the same longing to participate, selling trivial data about people who maneuver spectacularly in our fantasy lives without existing in our daily experience.

The scandal of the keyhole novel provides the same thrill, with the addition in America of a strong addiction to morality. The writer tells all; the writer also scolds. Transgression, punishment and absolution are wrapped into one neat package, and labeled art. Before the dangerous reality of the invented novel, a reader may be shocked into new evaluations of human life on earth. But before the strip-tease of the gossipaceous, inside-dope novel, there can be plenty of happy parlor talk about how well so-and-so has been bawled out. Unhappy lovers, caught in the act, are prodded with astonishment by superior peepers who think for a blessed moment that they have never been fools in love.

THUS the writer puts something over on his enemies and vindicates himself, as we would each like to do for real in life. He can return to the party and try it over again. He can remake history by careful plucking and combing in a mirror that is not a mirror. He has the last word.

But does he? Perhaps there is a revelation beyond the exposure of secrets, beyond the nagging dissection of pretense, even beyond the revelation of habits in contraception—a word after the final showdown with the old friend. Here we stand before the twin gates of charity and expectation, that devotion to

life which distinguishes the great novelist from the foible collector. The clenched hobbyist who catches the butterfly in his net only to pin it against a page is still very far from sharing the secret of the butterfly's shimmer and high flight. Ultimately his monument is one to industry and anger, and an anger and industry located only in the aggressive, acquisitive soul of the pursuer.

As Nelson Algren remarked of a lady who told of her love for him in a novel, "It's a case of violating her own privacy."

The highest creative art leaves

off with nagging, scolding, moralizing, gossiping. So does the highest criticism—let me conclude with an apology by confession. *Mea culpa!* But just this one more, please. "The truthseeker is without pity, but the sensual man sorrows for others." This is hard gospel truth, though incomplete. The truthseeker is without pity; the sensual man sorrows for others; but the one who sorrows only for himself and no other is neither a truthseeker nor properly sensual. He shall be rejected by the great stamp in the dead letter office of history: UNKNOWN HERE.

Out There in the Dark

PROMISES: POEMS 1954-1956. By Robert Penn Warren. Random House. 86 pp. \$3.

M. L. Rosenthal

HARDLY a major poet, Robert Penn Warren is nevertheless always an absorbing one. In verse as in prose he is a great yarn-spinner, a weaver too of portentous fancies that will pass in campfire-light as large profundities. He can sketch out a boldly evocative description, or alliterate you as echoing an alliteration as any man living:

Goat droppings are fresh in the hot
dust; not yet the beetle; the sun
beats.

And if you let him, he can conjure
up as thrilling a shudder as ever you
felt on first reading *Dracula*:

*Out there in the dark, what's that
horrible chomping?*
Oh, nothing, just hogs that forage
for mast....

All these talents combine to make Mr. Warren a gifted "literary" baladeer, one who seeks to graft sophisticated emotional and psychological dimensions onto the folk-narrative forms he employs. The poems are at one time corrosive, at another touching; sometimes they strike deeper, toward tragedy; almost always they strive to catch a complex mood and attitude, brooding and embittered yet punctuated here and there by a painfully awkward bleat of optimism. That bleat is all that remains of the innocence and idealism they would celebrate—it is a bleat for human possibility, amid a world of grunts, growls and bloody chomplings.

But human possibility, as presented here, seems all but inaudible and invisible. Observed reality drowns it out,

and the book is dominated by pieces like "School Lesson Based on Word of Death of Entire Gillum Family" and the seven-part "Ballad of a Sweet Dream of Peace." Both poems are grisly and highly colloquial, with "comic" notes midway between Caldwell and Faulkner, and with a touch of Ambrose Bierce to drive the horror home. We are again reminded of Bierce in the cold-blooded memories of the old Confederate cavalry captain of "Court-Martial." This poem "justifies" the evil in reality: not only is it impossible—Warren seems to argue—for even the best-intentioned man to escape the touch of evil, but it is also impossible for him to avoid living by it and practicing it with full knowledge. Warren's explanation: "The world is real. It is there."

So brooding a sense of the world's dark intractability is hard to shake off, even for a writer as high-spirited by nature and as wistfully eager to see daylight as Mr. Warren. The book is suffused with nostalgic lugubriousness—reminiscent of Edd Winfield Parks's weeping anthology of Southern poets—but also with that deeper, more dangerous motif of irrevocable loss of identity which we dare not call obsession but which is struck with such determined repetitiveness by so many Southerners. But its locale is sometimes foreign, and Mr. Warren has been in touch with the wide world of varied human experience and of the intellectual life in ways that Mr. Faulkner has not. One can see the liberating and liberalizing effect of his wider-ranging mind in many of these poems. This is not to deny that he lacks a final power which would enable him to tear loose from regionalism and its fixations in the most effective way. He does not break through by

confronting the deepest and bitterest truths of the South, but rather begins, as it were, to change the subject. Faulkner, for all his provincialism and downright silliness, has zeroed in again and again on the heart of darkness.

SUCH considerations notwithstanding, it is interesting and, finally, encouraging to see how the motif of integrity within defeat and disillusionment in Warren's poems chimes in with what we find in the work of Robinson and other, more recent Northern writers. Moreover, what he is doing coincides in its fashion with some of the exploratory, political, and tradition-hunting poetry of the twenties and thirties. If he is no revolutionary, if he slams no doors, he at least opens them to the outside world. Taking up from such elegiac regionalists as Davidson and Tate, he shakes up hard-set attitudes in the process of altering their perspectives.

It is no disparagement of the latter writers as poets to note that poems of Warren's like "What Was the Promise That Smiled from the Maples at Evening" and "Walk by Moonlight on a Small Farm" do alter and widen those perspectives, and that such a piece as "Founding Fathers" is actually a small, very quiet departure from Rebel patriotism. For one thing, the Southern locale is somehow transcended in those poems; their South is closer to the rest of the world than had hitherto been apparent; the tragic memory of a region becomes that of mankind at large, rather than an excuse for special pleading. If Warren's poetry is a bit relaxed in muscle and a bit over-anxious to compensate by indulgence in the bizarre, the raucous, and the near-mawkish, there is still a gain in an important kind of resilience: a refusal, against the tangible evidence, to accept the irrevocability of the tragic disappointment of all hope. The refusal is symbolized by the way in which, at the center of each of his two large groupings of poems in *Promises*, Warren places a child and the hopes that ride on it:

And think, as you move past our age
that grudges and grieves,
How eyes, purged of envy, will follow
your sunlit chance,
Eyes will brighten to follow your
brightness and dwindle of distance.
From privacy of fate, eyes will follow,
as though from the shadow of
leaves.

The poems, indeed, are filled with children: perhaps the bravest gesture yet of Warren, the anti-sentimental critic. Against the betrayals of the past—betrayal of need, of vulnerable

hopes, of rightful expectation of love—the children stand out as images of promise. Largely through them, and because of his own openness (perhaps also because of his desire to maintain rapport with the wide circle of readers

to whom he has become accustomed), Warren has turned a few degrees away from contemporary cultural and political stereotypes, and toward a newer, more adventurous vision of the world he has inherited.

Law, Sin and Private Behavior

THE SANCTITY OF LIFE AND THE CRIMINAL LAW. By Glanville Williams. Alfred A. Knopf. 350 pp. \$5.

REPORT OF THE COMMITTEE ON HOMOSEXUAL OFFENCES AND PROSTITUTION. Cmd. 247. Her Majesty's Stationery Office, London. Five shillings.

Graham Hughes

ONE OF the most disappointing features of the Labor Government's term of office in Britain after the war was its utter indifference to the reform of the substantive criminal law. It effected considerable improvement in penal procedures, but showed no inclination to attack the anachronistic bundle of punitive laws in fields where minority clerical ethics still dominate a secular society.

It is, therefore, especially encouraging that in the last few years public circles in England have been increasingly willing to lift the lid off this greasy pot and at least revolve its contents with lively discussion. In the case of homicide, the brilliant report of the Royal Commission on Capital Punishment was at last partially crammed down the maw of a reluctant government and enlightened opinion was rewarded with the certainly moderate but nevertheless vastly welcome Homicide Act.

Now England presents us with debate on even tenderer topics. In *The Sanctity of Life and the Criminal Law*, Dr. Glanville Williams, the Cambridge jurist, has plunged his dialectic lance into the most suppurating ethical boils on the body of the criminal law. He succeeds in letting out a vast quantity of putrid nonsense and leaves behind him a healthy aura of antiseptic.

Dr. Williams' book deals with suicide, infanticide, euthanasia, abortion, sterilization, artificial insemination and contraception. The author, as the legal public has known for a long time, combines extraordinary legal learning and

analytical power with a wide range of interest and information in the social sciences. To these talents he adds a facility for lucid and compelling exposition, and the result is a book of unfailing stimulation and appeal.

The central thesis is this: that the taking of sentient life is inherently revolting to the conscience of civilized man and is rightly proscribed by religion and by law. But this eminently proper position has been unnecessarily extended into a prohibition against the taking of all life in any circumstances (always excepting in time of war or as punishment for crime), and has been further ludicrously stretched to cover the suppression of potential life and the artificial initiation of life. The criminal law of England and America has long given up any express profession to punish sin. Sinful conduct should come under the authority of the criminal law only when it contains an element of social obnoxiousness. But where is the social harm of artificial insemination, which brings maternity to those who want it and who might otherwise be unable to achieve it; of voluntary sterilization or contraception which avoid maternity for those who are ill able to bear it; or of euthanasia which brings death to those in agony who earnestly desire it? Let those whose religion condemns such practices always be protected in their liberty to abstain from them, but also let the living mores of the majority prevail over the dead hand of sacerdotal casuistry.

THE author is at his best in demolishing the celebrated "thin end of the wedge" argument so often triumphantly proffered by those who oppose change in the criminal law. Once we meddle with human life for the best motives, they tell us, we may soon end by meddling for the worst motives. It is true that many good principles have been sadly perverted in application. As Dr. Williams points out, the movement for eugenic sterilization was gravely weakened by the objectionable aims and motives of the Nazis in their sterilization laws. But, as he also points out, the "wedge" argument is logically a

reason for abstaining from all activity. It is also an argument which has reverberated down the ages in stubborn attempts to cling to every legal barbarity from disemboweling for treason to the imposition of disabilities on Jews and Catholics. It can seriously be doubted that any deliberate relaxation of the criminal law in modern times has ever led to socially injurious consequences, and yet every such mollification has been attended with prophecies of catastrophe.

DR. WILLIAMS' attack on the entrenched moralities of the criminal law is supplemented by the recent report of the Wolfenden Committee, a British Home Office committee, on Homosexual Offences and Prostitution. The report significantly discriminates between crime and sin and holds that the duty of the criminal law is not to meddle in the private lives of citizens except where this is necessary to preserve public order and decency. The difficulty about homosexual practices is, of course, to discover the state of public opinion on what is offensive or injurious. Indeed the Committee admits that it failed to discover an unequivocal public opinion in this area, and its conclusions were presumably reached by a spirited guess at how great a relaxation of the present law the public would stand for.

The Committee comes up with a main recommendation, for which reformers have long clamored, that acts of homosexuality committed in private between consenting adults should no longer be criminal. It is difficult to see what other conclusion could be reached. The law on this point is at present in England haphazardly applied at the discretion of local police chiefs. Where it is enforced rigorously it leads to police snooping of the most distasteful kind; it is always a fertile breeder of blackmail. It saves no one's person; it protects no property; it does not even shield the public from offensive displays. It clearly does not in any way deter the offender from pursuing his inclinations. And yet it carries the mark of felony and a theoretical maximum penalty of imprisonment for life.

But, although private consenting acts between adults was the main issue which caused the establishment of the Committee, although such a proposal was universally expected, and although the Committee was so firm in its advocacy, the British Government has not seen fit to introduce legislation to implement this recommendation. Law reform gets few votes and may lose many. The steam of indignation which the Wolf-

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January 18, 1958

enden Report has generated in the columnists of the more primitive English newspapers has presumably scared off legislation for the moment. But it is unlikely that it can be long delayed.

THIS vigorous public debate in England on the state of penal sex laws should provide fresh ammunition for the reformers of the criminal law in America. The United States has taken the lead in the field of eugenic steriliza-

tion, but in most other instances its sex laws are even more dismally archaic than those of England. In Britain contraception is at least legal, and adultery and fornication are not crimes. Dr. Williams says that some American state laws on contraception are "scarcely credible" to a foreign lawyer. The comment could be appropriately extended to a great portion of our laws of sexual offenses, which are most lamentably in need of enlightened examination.

LETTER from BERLIN

William Weaver

HABEN SIE EIN English libretto? asked the elderly gentleman sitting next to me in (West) Berlin's *Städtische Oper*, my second night in the city.

I answered him, in English, that I hadn't; but we settled for my giving him a quick briefing on the opera's plot. It was *Idomeneo*—not exactly easy to summarize sensibly, but I did my best. As is customary among Americans meeting on foreign ground, we exchanged names, professions, home towns and the rest. He was a doctor from New York, traveling with his wife and sister-in-law; he didn't like opera, but was game to see anything once, and following this train of thought, he asked me: "Have you been to the East Sector?"

"I was over there this morning," I answered casually.

Really! He looked at me, wide-eyed, as if I had said: I just flew in from Omsk. "I wanted to go over there today—we had a hired limousine," he said, "but the ladies were afraid. But we're going tomorrow, though," he concluded triumphantly, "our travel agent told me there are regular tours going over there. A *tour* ought to be safe."

In spite of my lofty casualness with the doctor from New York, on my arrival in Berlin I had been just as ignorant of the protocol of going over to the "other" city and I had been just as nervous of doing so, until some newspapermen, friends of mine, had assured me it was all right; and even then I was reluctant to go over there by myself.

It's hard to describe the difference—physical and emotional—between the two parts of Berlin. Imagine, in the first place, that the center of New York has suddenly been shifted to Brooklyn, that Manhattan is in semi-enemy hands and is half-destroyed. The subways run normally between the two boroughs, but there is no telephone connection. Manhattan newspapers cannot be bought in

Brooklyn, and vice versa. If a man living at Prospect Park wants to know what's playing at Radio City Music Hall, he has to take a subway into Manhattan to find out (changing some of his Brooklyn money beforehand, so he can pay his fare back from Rockefeller Center in Communist currency).

But this is an inadequate parallel. What you feel in Berlin is that the East Sector is the beginning of *their* territory. Walking along those gloomy, usually deserted streets, you have the shudder of being on hostile ground; and though you see people going in and out of shops, hear radios playing, smell food cooking, you can't help remembering stories of people disappearing, leaving no trace. Even the simplest operation—buying a newspaper, asking a direction—becomes an act of bravado.

My first experience did nothing to allay this feeling. With a German friend, I took a taxi to do some errands, after which, we said to the driver: "Now take us to the East Sector, please." He answered that he didn't like to go over there, and made us take another cab.

"He probably fled from over there—or maybe his papers aren't in order," my friend said laconically, as we changed cabs. I felt uneasy, but determined, as we rolled down Bismarckstrasse toward the Brandenburger Tor. On our left was the ruined Reichstag; we stopped for a moment, a soldier said something to our driver and waved us on. We crossed the unmarked boundary, and immediately I saw other soldiers, dressed in what I recognized with a shock as the same green uniform the Wehrmacht had worn fifteen years ago—when I had seen it last.

To me and, I suspect, to most members of my generation who grew up on Penguin New Writing and the thin imported volumes from the Hogarth Press, Berlin meant Isherwood and Sally

Bowles. But it was impossible to fit them into the picture that unrolled before me: an Unter den Linden where the linden trees were no thicker than my forearm; a Friedrichstrasse, looking like a war-destroyed, abandoned suburb, with only a few dingy buildings here and there; and finally, the one completely rebuilt street, the Stalinallee. This is a long, broad avenue in pure Moscow-modern style, with tile facades and weirdly dainty balconies hanging from huge but unimposing buildings that look more foreign than anything I have seen in Europe. I was relieved to get away.

The next day I had lunch with an American music critic who lives in Berlin and gave him my first impressions.

"I know," he said, "sometimes when I get off the subway over there, I feel as if I were coming out of a time machine that had taken me back to 1947."

During lunch, he gave me a list of music and record shops over there where I could find Russian and Czech records and scores. "They're about the only things you're allowed to buy," he added. "If you don't have a visa for the East Zone, you can't buy any consumers' goods, any food or anything."

I realized the significance of this information the next day when, after a morning of tramping around to find the shops he listed, I felt hungry and tried to buy a cup of coffee and a roll. They asked for my documents, and shook their heads.

MY shopping had been a curious adventure. My first stop was the Czechoslovak Pavilion where, with photographs of party leaders looking down, a group of a dozen or more English soldiers, from God knows where, were crowded around the record counter, consulting the catalogue and trying to speak German with the girl in charge.

"Hey! Tchaikovsky's good, ain't he, sir?" one of the Tommies asked the officer. On being reassured, the soldier pointed to *Swan Lake*. "I'll take that."

The catalogue was fascinating, packed with obscure works by Dvorak, Smetana, Janacek, Fibich and other Czech composers. And—this was before East German currency was bolstered—the prices were fantastically low; I found myself buying all sorts of odds and ends.

After the ease with which I bought my complete *Dalibor* (Smetana) from the Czechs, I looked forward to other rare treats from the other shops, but as I began looking around, I found reactions varied very much from one store to the next: some would allow me to buy records, but not books; others, books

but no records. I was anxious to buy a hit by Eisler, *Ami Go Home* (in English in the original), but the shop where I found it insisted that foreigners weren't allowed to buy records.

The last store on my list was *Das Internationale Buch*, a Russian-run establishment off the enormous Alexanderplatz. As I crossed its windy expanse a sound-truck was blaring music, between commercials; not—I noted wryly—Eisler's hit, but an old Helen Morgan song called *Mean to Me*.

The pictures in *Das Internationale Buch* were of Lenin and Marx. And the salesladies were speaking to each other in Russian as I came in. I was happy to observe that their German wasn't much better than mine. The shop had a pleasant, Dickensian gloominess about it; the records were in dark, walnut shelves and there were bookcases on the other walls, heavy library tables at several points, displaying charming Chinese scrolls and calendars.

As I pored over their catalogue, my saleslady lighted a cigarette in her long amber holder, her wrist jangling an assortment of gold chains and bracelets. I settled on some Prokofiev pieces—just to try her. She handed them to me. Then I bought some Kabalevsky, some Dargomisky airs. No trouble at all.

"Have you any scores?" I asked, and she pointed to a pile of them. I picked out Tchaikovsky's *Mazepa*.

Finally, I decided to look over the books. They were in various languages, including English. The works of Dreiser, and London, and Shakespeare. Also several novels by Howard Fast. I picked one up. Apparently little Russians learning English have to struggle through Howard Fast the way I struggled through *Pecher d'Islande* and *Le Crime de Sylvestre Bonnard*. In the back of the book there was an elaborate glossary, explaining such difficult expressions as "big shot" and "on the up and up." I put the novel back; let the Russians worry about that, I thought.

The Russian woman put down her cigarette long enough to wrap up my purchases, and hand me my change with a cheery *wiedersehen*. I felt quite at home as I stepped out into the chill air of Alexanderplatz and headed for the subway. Still as we passed the underground boundary into the West, I felt a strange relief. At the moment you cross the border, the lights in the train go out for a few seconds; the brief darkness has a symbolic value. The lights seem brighter afterwards.

My last trip to the East Sector came a few nights later. An English musicologist and I had, with some difficulty,

secured tickets to the Komische Oper's production of Janacek's *Das schlaue Fuchslein*—a wonderful, touching fairy tale about human animals and inhuman humans, brilliantly staged by Walter Felsenstein, Germany's best director (he is going to La Scala this spring.) Opera in East Berlin is cheap and very popular; with the Brecht theatre, it is one of the few attractions that draw West Berliners over the border.

It was already dark when we came up from the subway to the surface. Our stop was *Stadtmitte*, the center of the city. As I turned up my collar against the cold, I looked around: a waste of vacant, rubble-strewn lots, the rubble overgrown with weeds. A few women, bundled in bulky, anonymous coats, their heads tied in shawls, were picking their way familiarly among the pot-holes. Everything was black and gray; it looked like a newsreel, not of 1947, but a few years earlier.

The opera was splendid. It would be easy to make generalizations about the audience and how dingily it was dressed—but even rich West Germans hardly measure up to New York ideas of *chic*. They all looked as if they had dressed in the dark. This, however, was an international public, quite different from the international public of the Festival back across the boundary; here there was an official Chinese delegation of some kind (they applauded with enthusiasm) and more than once I overheard others speaking Russian.

At the first intermission we were dying of hunger. To our delight, the opera's buffet did not ask to see our documents, so we stuffed ourselves with roast beef sandwiches, meat cakes and potato salad (delicious). Then we saw some caviar; also delicious. And finally I heard corks popping.

"Let try some Russian champagne."

The Englishman looked at me, astonished; both of us had been eating the two-mark chef's special (the music critic's plate, as somebody called it) for the past few days, afraid of spending our fares home.

"They're only East marks," I said grandly, as I ordered two *coupees*; they cost about twenty cents apiece.

"My turn," he said, as we drained them. "What's *champagne* in German?"

After the fourth round, I said, "I'm beginning to feel like a war-mongering, Western, bourgeois profiteer."

"Wait till the next intermission."

On the way back in the subway I could almost feel my hangover beginning. The light blinked out and on; we were back in the West. "The land of Alka-Seltzer," I thought, with relief.

ART

Maurice Grosser

THE FIRST American showing, at Wildenstein's until January 15, of the work of Pietro Annigoni, said to be the most expensive portrait painter of our day; the exhibition of Thomas Eakins which will open at the American Academy of Arts and Letters on January 16; René Bouché's portraits of international celebrities which were on view at the Iolas Gallery during the month of November; and the group of portraits by Larry Rivers which hung until last week at the Tibor de Nagy, taken all together, bring up an old and troublesome question—when is a portrait a work of art?

The Annigonis are sumptuous and carefully executed. The painter demands, I understand, some thirty-five hours of pose. Their general manner is reminiscent of Holbein and of early Renaissance—the forms handsomely modeled in the round, the painting detailed and smooth. The medium, which is something of a mystery, is apparently a water-thinned tempera emulsion applied

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between layers of varnish or resin. The surface of the smaller works is glossy and mechanically perfect, like the hand-worked finish of an expensive car. The drawing is subtle, direct and skillful. The color is rich but not particularly interesting.

Annigoni's technical mastery is astonishing, but the results seem both ostentatious and servile. He does not attempt to prettify his sitters; he is too sound a draughtsman for that. He flatters nonetheless by attributing to his sitters an intense emotional life. He neglects their real and possibly less showy character to depict them as if possessed by sentimental memories and amorous anticipations. The most striking example of this is in his portrait of the present Queen of England, posed on a hill against the sky, her eye illuminated by the light of love, like any actress in a singing movie.

THOMAS EAKINS was technically much less competent. As a portrait painter he was incomparably more manly. As one can see in the forty-six pictures on display, his work is very uneven. The painting is heavy and laborious. His handling, learned under Gérôme at the Ecole des Beaux Arts, with its opaque darks and loaded and somewhat greasy lights, has little ease. Details are often overworked at the expense of the general form and pattern. The pictures are often over-large, their empty compositions incredibly naive. (Witness the portrait of Riter FitzGerald, an amiable life-sized gentleman seated in a huge square canvas three-quarters filled with books in bookcases.) The landscapes and many of the genre pictures have quite wonderful color, but the greater number of the interiors, with their heavy shadows and dull tones, convey the unhappy impression of having been painted at night by gaslight. The painting is forceful; it is not handsome. One thinks of Eakins as an industrious and clumsy man, hampered by the limitations of an inferior tradition, but who by the force of his stubbornness and honesty arrived at painting unforgettable pictures.

Certainly the portraits are unforgettable. There is no stylization whatsoever of the subjects' character, no attempt to make them more winning or comely. They are given no artificial grandeur. The men are heavy, ugly and pleased to be painted. Walt Whitman appears as what he most probably was, a perfect likeness to the king in *Huckleberry Finn*. The women are more interesting—serious, strong, competent, seen in the round. Their portraits are

among his most successful pictures—*Katherine*, playing with her cat, *Miss Amelia C. Van Buren*, *The Pathetic Song*—fine portraits and fine painting as well. But even in his inferior pictures he kept his professional dignity. He tried to please no one but himself.

THE painting of René Bouché is witty, brilliant and civilized. He is more acute than Annigoni and more superficial than Eakins by the very nature of his sitters, who — Georges Braque, Jean Cocteau, Mlle. Chanel, Mme. Claude Alphand, Christian Dior, Truman Capote, Aldous Huxley, *et al*—are princes and princesses of the international world of fashion. Bouché's color is brilliant, his paint thin and fluid, his execution nervous and accurate, in the soundest virtuoso tradition of our time—straight from the Fauves, from Van Dongen, Bérard and Dufy.

The canvases are large enough to give the painter ease, but not unwieldy. The arrangements of the sitters against their characteristic background—Chanel at home, Dior at dinner—could not be more ingenious or successful. But the most striking thing about these portraits is that the sitters are presented from the outside. We see them as if at an afternoon party—well-dressed, self-possessed, amiable enough and at their right age. The painter has kept his distance. This complete detachment is the work's greatest elegance. The limitation this attitude imposes on the painter's vision is also perhaps its weakness.

Perhaps not. Bouché's sitters belong to a class known to publicity and to the stage as "the big time." The distinguishing mark of this class is a firm and easily projected personality, recognizable and uniform, without visible reticences or contradictions. It is evidence of Bouché's strength that he has been able to present the fabulous masks of these perhaps most mythical creatures of our time without either adulation or resentment. It is also evidence of his sensitivity that he occasionally allows himself to reveal more—as in his portrait of Cocteau, where one may glimpse behind the mask an aged and embittered eagle.

Bouché's painting method is improvisation. The pictures are done directly from the subject in two or three sittings, and not retouched afterwards, the only preparation being a sitting or so of rapid pencil drawings whose purpose is to introduce the model to his painter. With Larry Rivers improvisation is carried still farther. There is no preparation whatsoever. The sitter is painted directly on the canvas in a series of sketches in full color. The successive

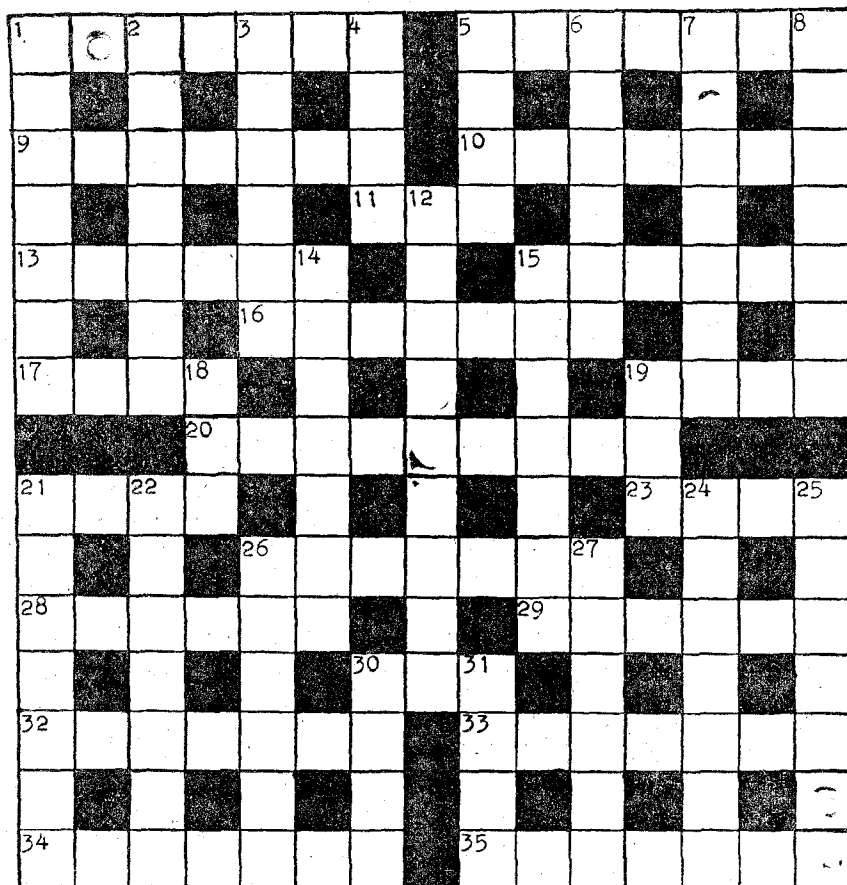
sketches are not superimposed as is ordinarily the case in painting, where each day's work corrects or completes the work of the preceding sitting. Instead they are spread over the canvas in the manner of an album leaf. The individual studies are never carried to completion, but the conjunction of their various details presents a kaleidoscopic and surprisingly convincing image of the sitter. (Particularly successful in this are the two portraits of the artist's son, *Stevie in a Plaster Cast* and *Stevie on Crutches*, each with its seven or eight unfinished depictions.) The canvases are relatively large to give room for this multiplied image. The colors are light and gay, the great areas of exposed ground serving to define the general picture tone. The line quality is less sensitive and less expressive than Bouché's, the pictures more anecdotal and private. They present a history of the painter's relation to his sitter rather than a formalized resemblance. But they are in no way hermetic; they are only incompletely stated. Their very incompleteness gives them a charm and a continuing interest that more labored work might not possess.

THE four painters here are strikingly different in character. The works of Annigoni are above all rich, of Eakins honest, of Rivers spontaneous, and of Bouché intelligent. But what could be the particular quality which would give survival value to work whose only theme is a human resemblance?

It might be that quality in the painter himself which combines professional pride and moral responsibility. The unique aim of the painter's training has been to teach him to see. This ability constitutes his professional qualification. He can see better than anyone else and what he sees is what the world of his time looks like. If his portrait is to be a respectable professional performance and capable of interesting a later time, it must depict what the painter sees, not what the sitter imposes. Any concession, any flattery, any undeserved attribution of charm, beauty, majesty, what you will, however reassuring it may be to a client, lessens the portrait as a work of art. Because, in the long run, a work of art presents only the likeness of its maker. This is why the painting of Annigoni, in spite of his superb technical mastery, remains modish and frivolous, and why the work of Eakins, a provincial painter schooled in what was probably the worst tradition of painting the world has ever known, is impossible to forget. As a professional, Eakins was a proud man.

Crossword Puzzle No. 755

By FRANK W. LEWIS



ACROSS:

- 1, 5 across, 13 and 30 down The demand for a scintillating performance is usually followed by some doubt as to proper make-up. (7, 7, 6, 4)
- 9 Not necessarily helped under the free medical plan. (7)
- 10 Behaving like the listening public. (7)
- 11 Held a session at the beginning of the week-end. (3)
- 13 See 1 across
- 15 In Romansch, is this "rock"? (6)
- 16 Quenched. (7)
- 17 Given by light fish, alternatively. (4)
- 19 Broods over the radio and television, perhaps. (4)
- 20 Regulation covering the faulty drain is a single time. (9)
- 21 See 23 across
- 23, 21 across, 5 down, 4 down, and 31 down Therefore the Speedwell should be good! (4, 4, 4, 4, 4)
- 28 Vis-à-vis the lining. (6)
- 29 An overwhelming rush. (6)
- 30 All directions but north unite. (3)
- 32 Might be highly placed in naval circles. (Or is it the watchword associated with a Roman cave?) (7)
- 33 With the head turned, treating with regard a point of structure. (7)
- 34 Sixteenth century laureate. (7)
- 35 One might not appreciate their becoming too attached. (7)

DOWN:

- 1 Does one like to give things away

- like an old sheet? (7)
- 2 In a sluggish manner. (7)
- 3 Boiler, perhaps. (6)
- 4 and 5 See 23 across
- 6 Call up to see where tears form. (6)
- 7 He lost the title in 1914. (7)
- 8 Clergy, nobles, and commons. (7)
- 12 Is the Declaration right in this? Such things can be diverted! (9)
- 14 Discharging. (7)
- 15 The hunter tries not to be in a sort of decline, sort of! (7)
- 18 A hot note? (3)
- 19 With my following it's rather worse for a body. (3)
- 21 Part of a quiet supper might be rather loud in Cambria. (7)
- 22 Miss about to behave like sugar! (7)
- 24 Rather awkward, this! (7)
- 25 If you have one talent, you might have many. (7)
- 26 Perhaps made of mesh, with locks inside them. (6)
- 27 The way the opponents may foul up a pass? (6)
- 30 See 1 across
- 31 See 23 across

SOLUTION TO PUZZLE NO. 754
ACROSS: 1, 26, 6, 21, 23, 27 and 7 FIFTEEN MEN ON A DEAD MAN'S CHEST; YO HO HO AND A BOTTLE OF RUM; 5 SHADOWS; 9 LEERS; 10 BESMEARED; 11 IMPASSIVE; 12 DEMPS; 13 SLEDGES; 15 TRANCES; 17 ABSCESS; 19 ARSENIC; 25 DRAGONETS; 28 ABRIDGE; DOWN: 1 FILLIES; 2 FREE PRESS; 3 BASES; 4 NUBBINS; 5 SUSPECT; 8 SADISTS; 14 GREATCOAT; 16 CONTAINED; 17 ARCADIA; 18 STYRENE; 19 APHASIA; 20 CADENCE; 22 ERATO; 24 HOMER.

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